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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,283	07/15/2003	Kelvin Todd Evans	15072.9A	7726

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EXAMINER

HEWITT, JAMES M

ART UNIT PAPER NUMBER

3679

DATE MAILED: 03/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/620,283

Applicant(s)

EVANS

Examiner

James M Hewitt

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/13/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/27/04 has been entered.

### ***Claim Objections***

Claims 1-33 are objected to because of the following informalities:

In claim 1 line 6, the phrase "the elongate tubular member" lacks antecedent basis; it is apparent that the phrase should be replaced with "the elongate tubular body".

In claim 1 lines 8-9, the phrase "the elongate tubular member" lacks antecedent basis; it is apparent that the phrase should be replaced with "the elongate tubular body".

In claim 1 line 9, "at least one" should be inserted before "conduit portion".

In claim 1 line 9, "at least one" should be inserted before "effluent".

In claim 1 line 10, "having" should be replaced with "when" and "is" should be inserted before "generally".

In claim 1 line 13, "effluent" should be inserted before "retention".

In claim 1 line 18, "effluent" should be inserted before "retention".

In claim 1 line 22, "at least one" should be inserted before "conduit portion".

In claim 3 line 2, "a" should be "the".

In claim 7 line 5, the phrase "the elongate tubular member" lacks antecedent basis; it is apparent that the phrase should be replaced with "the elongate tubular body".

In claim 7 line 7, the phrase "the elongate tubular member" lacks antecedent basis; it is apparent that the phrase should be replaced with "the elongate tubular body".

In claim 7 line 8, "at least one" should be inserted before "conduit portion".

In claim 7 line 8, "at least one" should be inserted before "effluent".

In claim 7 line 9, "having" should be replaced with "when", the underline between "longitudinal" and "axis" should be deleted, and "is" should be inserted before "generally".

In claim 7 line 13, "fist" should be "first".

In claim 7 line 16, "at least one" should be inserted before "conduit".

In claim 7 line 18, "the longitudinal axis" lacks antecedent basis. The phrase "along a longitudinal axis thereof" should be inserted after "therethrough" in line 3.

In claim 13 line 5, the phrase "at least one effluent retention portion comprises first, second and third effluent retention portions and the" should be inserted before "manifold".

In claim 13 lines 5-6, the phrase "third effluent retention portion and" should be deleted.

In claim 13 line 7, "a" should be "the".

In claim 13 line 9, "a" should be "the".

In claim 19 line 6, "the elongate tubular members" lacks antecedent basis.

In claim 19 line 7, "the conduit portion" lacks antecedent basis.

In claim 19 line 8, "the tubular member" lacks antecedent basis; it is apparent that 'member' should be 'body'.

In claim 20 lines 1-2, "the longitudinal axis" lacks antecedent basis.

In claim 20 line 2, "the input and output ports" lacks antecedent basis.

In claim 22, stating that the at least one transverse port includes three transverse ports results in claim that requires three transverse ports to extend from the intermediate portion (see claim 19 line 9), which is incorrect, and not in accord with the invention.

In claim 26 lines 5-6, the phrase "the elongate tubular member" lacks antecedent basis; it is apparent that the phrase should be replaced with "the elongate tubular body".

In claim 26 line 8, the phrase "the elongate tubular member" lacks antecedent basis; it is apparent that the phrase should be replaced with "the elongate tubular body".

In claim 26 line 8, "at least one" should be inserted before "conduit portion".

In claim 26 line 9, "at least one" should be inserted before "effluent".

In claim 26 lines 9-10, "having" should be replaced with "when" and "is" should be inserted before "generally".

In claim 26 line 12, "effluent" should be inserted before "retention".

In claim 26 line 17, "effluent" should be inserted before "retention".

In claim 26 line 18, "of the" should be "of".

In claim 27 line 3, "at least one" should be inserted before "conduit".

In claim 29 line 2, "a" should be "the".

In claim 29 line 5, the phrase "at least one effluent retention portion comprises first, second and third effluent retention portions and the" should be inserted before "manifold".

In claim 29 lines 5-6, the phrase "third effluent retention portion and" should be deleted.

Note that in claims 5, 10, 15-16, 18 and 20-23, the status identifier "(Previously Amended)" is impermissible with respect to 37 CFR 1.121(c). It is apparent that the status identifier "(Previously Presented)" should be used.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCord (US 5,988,943).

With respect to claim 1, McCord discloses a manifold comprising: an elongate tubular body having a first longitudinal port (at 18 on left in Figure 1) and an opposing second longitudinal port (at 18 on right in Figure 1) for providing fluid flow through the body along a longitudinal axis thereof, the elongate tubular body having at least one

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effluent retention portion (14) and at least one conduit portion (16) formed therein, wherein an inner cross-sectional area of the elongate tubular member for the at least one effluent retention portion is greater than the inner cross-sectional area for the at least one conduit portion (the conduit portion fits within the retention portion, thus the inner cross-sectional area of the retention portion is greater than that of the conduit portion), a first transverse port (at 25) positioned between the first and second longitudinal ports for providing a transverse fluid flow from the at least one effluent retention portion, the first transverse port having an axis within a plane of and generally orthogonal to the longitudinal axis, a second transverse port (25) positioned between the first transverse port and at least one of the first and second longitudinal ports for providing a second transverse fluid flow from a second retention portion of the at least one retention portion, the second transverse port having an axis within the plane of the generally orthogonal to the longitudinal axis. McCord fails to teach opposing first and second ribs extending outwardly from an outside surface of the conduit portion of the tubular body, wherein the first and second ribs radially extend from the longitudinal axis are orthogonal to the plane having the transverse port axes and longitudinal axis therein, and wherein the ribs provide means for supporting the manifold during installation thereof. As the use of opposing ribs on a pipe body is admitted to be known, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ ribs on McCord in order to provide and impart additional strength to the pipe.

Regarding the limitation “wherein an inner cross-sectional area of the elongate tubular body for the at least one effluent retention portion is greater than the inner cross-sectional area for the at least one conduit portion *such that fluid entering the elongate tubular body passes through the at least one conduit portion and is retained within the at least one effluent retention portion during use of the manifold when the longitudinal axis is generally horizontal*”, since McCord’s effluent retention portion has an inner cross-sectional diameter (and area) greater than the inner cross-sectional diameter (area) for the at least one conduit portion, as evidenced by the fact that conduit portions (16) fit within each end of the effluent retention portions (14), McCord’s effluent retention portions (14) are considered capable of retaining at least some fluid passing through the manifold, at least in that the inner portion of the retention portions that is not in concentric and surrounding the ends of the inserted conduit portions, and as McCord’s portions (14) can retain this fluid, they can reasonably be interpreted as “effluent retention portions”.

With respect to claim 2, McCord fails to teach that each of the ports is closed, and wherein a cut is made in the manifold for opening a selected one of the ports for permitting fluid flow therethrough. Nevertheless, the examiner takes official notice of the use of frangible closures for pipes. McCord employs plugs or end caps to close his ports. Frangible closure means are a common substitute.

With respect to claim 3, wherein the first and second ports are centered about a longitudinal axis of the elongate tubular body. The second and fifth ports from the left in Figure 1 are centered.



With respect to claim 4, wherein at least one effluent retention portion comprises three effluent retention portions (14, 14 and 20), and wherein two (14, 14) of the three effluent retention portions each have the first transverse port (25) extending therefrom for directing fluid flow into the first transverse direction and the second transverse port extending from the third effluent retention portion (20) for directing flow into the second transverse direction, which second direction radially opposes the first direction. The port connected to retention portion (20) is oriented vertically. The examiner contends that the tee can be rotated or oriented such that the port faces opposite the direction of ports (25).

With respect to claim 5, wherein a top plan view thereof comprises a mirror image of a bottom plan view thereof. With fitting (40) removed, the top view of the device mirrors a bottom view of the device. Note that fitting (40) is not necessarily connected to the device.

With respect to claim 6, McCord fails to teach that the first and second longitudinal ports comprise male and female connections for connecting to a second manifold having a similar form thereto. Each of the longitudinal ports includes a female fitting. Nevertheless, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a male fitting in one of the ports in order to facilitate connection to another distribution device.

With respect to claim 7, McCord discloses a manifold comprising: an elongate tubular body having a first longitudinal port (at 18 on left in Figure 1) and an opposing second longitudinal port (at 18 on right in Figure 1) for providing fluid flow therethrough,

the elongate tubular body having at least one effluent retention portion (14) and at least one conduit portion (16) formed therein, wherein an inner cross-sectional area of the elongate tubular member for the at least one effluent retention portion is greater than the inner cross-sectional area for the at least one conduit portion (the conduit portion fits within the retention portion, thus the inner cross-sectional area of the retention portion is greater than that of the conduit portion), a first transverse port (25; however for claim 18, the first port has been interpreted as that port having plug 24 therein) positioned between the first and second longitudinal ports for providing a transverse fluid flow from the elongate tubular body in a first transverse direction, a second transverse port (25; however for claim 13, the second port has been interpreted as that port having plug 24 therein) positioned between the first and second longitudinal ports for providing a second transverse fluid flow from the elongate tubular body in a second transverse direction. McCord fails to teach opposing a rib extending outwardly from an outside surface of the conduit portion of the tubular body, wherein the rib extends from the conduit portion orthogonal to the plane having the axis of at least one transverse port and the longitudinal axis therein. As the use of opposing ribs on a pipe body is admitted to be known, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ ribs on McCord in order to provide and impart additional strength to the pipe.

Regarding the limitation "wherein an inner cross-sectional area of the elongate tubular body for the at least one effluent retention portion is greater than the inner cross-sectional area for the at least one conduit portion *such that fluid entering the elongate*

*tubular body passes through the at least one conduit portion and is retained within the at least one effluent retention portion during use of the manifold when the longitudinal axis is generally horizontal*", since McCord's effluent retention portion has an inner cross-sectional diameter (and area) greater than the inner cross-sectional diameter (area) for the at least one conduit portion, as evidenced by the fact that conduit portions (16) fit within each end of the effluent retention portions (14), McCord's effluent retention portions (14) are considered capable of retaining at least some fluid passing through the manifold, at least in that the inner portion of the retention portions that is not in concentric and surrounding the ends of the inserted conduit portions, and as McCord's portions (14) can retain this fluid, they can reasonably be interpreted as "effluent retention portions".

With respect to claim 8, McCord fails to teach that each of the ports is closed, and wherein a cut is made in the manifold for opening a selected one of the ports for permitting fluid flow therethrough. Nevertheless, the examiner takes official notice of the use of frangible closures for pipes. McCord employs plugs or end caps to close his ports. Frangible closure means are a common substitute.

With respect to claim 9, wherein at least one of the first and second transverse ports extends from the at least one effluent retention portion.

With respect to claim 10, refer to the obviousness rejection of claim 7.

With respect to claim 11, wherein the first and second ports are centered about a longitudinal axis of the elongate tubular body. The second and fifth ports from the left in Figure 1 are centered.

With respect to claim 12, wherein axes of the first and second transverse ports lie within a single plane of and are generally orthogonal to the longitudinal axis.

With respect to claim 13, wherein at least one effluent retention portion comprises three effluent retention portions (14, 14 and 20), and wherein two (14, 14) of the three effluent retention portions each have the first transverse port (25) extending therefrom for directing fluid flow into the first transverse direction and the second transverse port (with plug 24) extending from the third effluent retention portion (20) for directing flow into the second transverse direction, which second direction radially opposes the first direction. The port connected to retention portion (20) is oriented vertically. The examiner contends that the tee can be rotated or oriented such that the port faces opposite the direction of ports (25).

With respect to claim 14, wherein the second transverse port is positioned between the two first transverse ports.

With respect to claim 15, wherein the rib comprises opposing first and second ribs radially extending from the elongate tubular body along the longitudinal axis. Refer to the rejection of claims 7 and 10.

With respect to claim 16, wherein a top plan view thereof comprises a mirror image of a bottom plan view thereof. With fitting (40) removed, the top view of the device mirrors a bottom view of the device. Note that fitting (40) is not necessarily connected to the device.

With respect to claim 17, McCord fails to teach that the first and second longitudinal ports comprise male and female connections for connecting to a second

manifold having a similar form thereto. Each of the longitudinal ports includes a female fitting. Nevertheless, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a male fitting in one of the ports in order to facilitate connection to another distribution device.

With respect to claim 18, further comprising a septic tank pipe connected to the first transverse port (that port with plug 24) and a drain filed pipe connected to the second transverse port (25) for providing fluid flow therebetween. Refer to column 3 lines 23-50.

With respect to claim 19, McCord discloses a manifold comprising: a tubular body having an input conduit portion (16) and an opposing output conduit portion (16) and an intermediate portion (14) therebetween, and wherein an inner cross-sectional area of the elongate tubular body for the intermediate portion is greater than the inner cross-sectional of the input and output conduit portions, a transverse port (25) extending from the enlarged girth portion. McCord fails to teach opposing a rib extending outwardly from the body at a location removed from the intermediate portion for supporting the manifold during installation thereof. As the use of opposing ribs on a pipe body is admitted to be known, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ ribs on McCord in order to provide and impart additional strength to the pipe.

Regarding the limitation "wherein an inner cross-sectional area of the elongate tubular body for the intermediate portion is greater than the inner cross-sectional area of the input and output conduit portions *such that fluid entering the elongate tubular body*

*passes through the conduit portions and is retained within the intermediate portion during use of the manifold when the longitudinal axis is generally horizontal*", since McCord's intermediate portion (14) has an inner cross-sectional diameter (and area) greater than the inner cross-sectional diameter (area) of the conduit portions, as evidenced by the fact that conduit portions (16) fit within each end of the intermediate portions (14), McCord's intermediate portions (14) are considered capable of retaining at least some fluid passing through the manifold, at least in that the inner portion of the intermediate portions that is not in concentric and surrounding the ends of the inserted conduit portions.

With respect to claim 20, wherein a longitudinal axis through a center of the input and output ports is orthogonal to a transverse axis passing through a center of the transverse port.

With respect to claim 21, wherein the rib comprises opposing first and second ribs radially extending from the elongate tubular body. Refer to the rejection of claim 19.

With respect to claim 22, wherein the transverse port includes at least three transverse ports, and wherein a central axis for each of the at least transverse ports lies with a plane including a central longitudinal axis of the tubular body.

With respect to claim 23, wherein the rib comprises opposing first and second ribs radially extending from the tubular body. Refer to the rejection of claim 19.

With respect to claims 24 and 25, wherein the inner cross-sectional areas are circular.

Regarding claims 26-33, refer to the above rejections.

### ***Response to Arguments***

In view of the amendments to claim 19, the new matter objection in the final office action (7/26/04) has been withdrawn.

Applicant's arguments filed 1/27/04 have been fully considered but they are not persuasive.

Regarding Applicant's arguments presented in the paragraph beginning on page 11 and ending on page 12, refer above to the rejections of claims 1, 7, 19 and 26.

In response to applicant's argument that there is no suggestion to provide ribs on McCord, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, as the use of opposing ribs on a pipe body common and admitted to be known, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ ribs on McCord in order to provide and impart additional strength to the pipe. Regarding the limitation "for attaching to a clamping device...". McCord is considered to meet this limitation insofar as ribs on McCord's pipe body would be *capable* of being attached to a clamping device when supporting the manifold in a desired location and

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elevation during installation of the manifold. The clamping device is not being positively claimed.

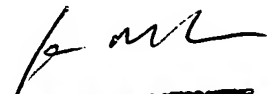
### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M Hewitt whose telephone number is 703-305-0552. The examiner can normally be reached on M-F, 930am-600pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Stodola can be reached on 703-308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**JAMES M. HEWITT**  
**PRIMARY EXAMINER**